

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JERRY G. WILLS,

No. C 05-2690 CW (PR)

Petitioner,

ORDER DENYING PETITION
FOR WRIT OF HABEAS CORPUS

v.

BEN CURRY, Warden,

Respondent.

INTRODUCTION

Petitioner Jerry G. Wills, a state prisoner, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging as a violation of his constitutional rights the denial of parole by the California Board of Parole Hearings (Board).¹ Specifically, Petitioner claims that the Board's decision was arbitrary and capricious and failed to meet the "some evidence" standard identified in Superintendent v. Hill, 472 U.S. 445, 455 (1985).

In response to Petitioner's original petition, the Court issued an Order to Show Cause on January 19, 2006. Petitioner had

¹ The Board of Prison Terms was abolished effective July 1, 2005, and replaced with the Board of Parole Hearings. Cal. Penal Code § 5075(a).

1 filed an amended petition on the previous day, raising the same
2 claims.

3 On March 16, 2006, Respondent filed a motion to dismiss
4 claiming that Petitioner does not have a federally protected
5 liberty interest in parole, and that therefore the Court lacks
6 subject matter jurisdiction. Citing Sass v. California Bd. of
7 Prison Terms, 461 F.3d 1123, 1125 (9th Cir. 2006), the Court denied
8 Respondent's motion on February 1, 2007 and ordered Respondent to
9 file an answer.

10 On March 30, 2007, Respondent Warden Ben Curry² filed an
11 answer addressing the claims in Petitioner's original petition.³
12 Petitioner has filed a traverse. Having considered all of the
13 papers filed by the parties, the Court DENIES the petition.

14 BACKGROUND

15 At Petitioner's fourth parole suitability hearing on June 1,
16 2004, the Board considered the following information, derived from
17 the Orange County Probation Officer's Report:

18 Records of the Fountain Valley Police Department (case
19 # 79-7951) reveal that on December 22, 1979, shortly
20 after 4:00 A.M., a report was received of possible
21 gunshots being fired and a woman screaming, at 10355
Slater, Building 12, Apartment 201. Officers responded
to that location, and heard a man and woman talking in
subdued voices, within the apartment. Officers knocked

22 ² The State claims that under Rule 2(a) of the Rules Governing
23 Habeas Corpus Cases Under Section 2254, the proper respondent is
24 Ben Curry, the warden at the Correctional Training Facility where
25 Petitioner is incarcerated. (Answer at note 1.) Accordingly, the
Court directs the Clerk of the Court to substitute Warden Ben Curry
as Respondent in this action.

26 ³ In his answer, Respondent again raises the argument that the
27 Court lacks subject matter jurisdiction. However, this argument
has already been ruled on.

1 on the door and identified themselves, and the door was
2 opened by the defendant, Jerry Gene Wills. He was put
under gunpoint and was searched for weapons. A .38
3 calibre revolver was located in his rear trouser pocket.
The defendant was placed in custody at that time. A
4 search of the interior of the residence revealed the
nude, face-down body of twenty-seven-year-old Mark
5 Stephen Pesanti, who appeared to be deceased.
Investigation showed that he had been shot three times by
6 the defendant's weapon. Lying next to Pesanti, on the
floor, was twenty-two-year-old Joelle Catherine
7 Sennewald, one of the two female residents of that
apartment. She too was nude, and appeared to be
8 suffering from a gunshot wound in her upper chest.
Additionally present in the apartment was twenty-five-
9 year-old Carol Ann Walker, Miss Sennewald's roommate.
Miss Walker was uninjured.

10 Investigation revealed that Miss Sennewald had been
dating both Mark Pesanti and the defendant, Jerry Wills,
11 and that late in the evening, on December 21, 1979, the
three of them had had a lengthy discussion, at Miss
12 Sennewald's residence, regarding her intentions with
reference to the two men. At that time, she reportedly
13 had told the defendant that she no longer wanted to date
him, and that she was going to exclusively see Mark
14 Pesanti. The defendant reportedly left her residence at
that time. Approximately fifteen minutes later, he
15 called Miss Sennewald on the telephone and told her to
listen carefully, and that the next sound she heard would
16 be a gunshot. At that time, she reportedly slammed the
receiver down on the hook and then disconnected the line.
17 According to the report, Miss Sennewald and Mark Pesanti
then went to bed together, and apparently engaged in
18 sexual intercourse. At approximately 4:00 A.M., on
December 22, 1979, the defendant had apparently scaled a
19 tree, next to Miss Sennewald's apartment, and had then
entered the sliding glass door on the second floor of the
20 residence. He reportedly held a gun on Mr. Pesanti and
Miss Sennewald, and turned on a nearby light. While he
21 was reaching to turn on a bedside lamp, Mark Pesanti
reportedly attempted to knock the gun from his hand, and
22 a struggle ensued. Miss Sennewald ran from the room,
after hearing one gunshot, and was followed several
23 seconds later by Mr. Pesanti. He in turn was pursued by
the defendant, into Miss Walker's bedroom, where the
24 defendant apparently fired two more shots at Mr. Pesanti,
ultimately causing fatal injuries. He then shot Miss
25 Sennewald in the upper chest. The report indicates that
he reloaded his weapon, and that shortly thereafter the
26 police arrived and placed him under arrest.

27 (Resp't Ex. 2, Orange County Pre-Sentence Report at 3.)

1 On July 16, 1980, Petitioner was convicted of one count of
2 first degree murder and one count of attempted murder in the Orange
3 County Superior Court. (Id. at 3.) On August 13, 1980, Petitioner
4 was sentenced to twenty-seven years to life in state prison. (Id.;
5 Pet. at 9.) Petitioner was received into the California Department
6 of Corrections and Rehabilitation on September 10, 1980, and his
7 minimum parole eligibility date was set for January 5, 1996.
8 (Pet'r Ex. A, Cumulative Case Summary at 1.)

9 At Petitioner's fourth parole suitability hearing, the Board
10 found Petitioner unsuitable for parole because he posed an
11 "unreasonable risk of danger to society or a threat to public
12 safety if released from prison." (Resp't Ex. 1, Parole
13 Consideration Hearing Transcript at 77.) The Board issued a three-
14 year parole denial. (Id. at 81.) The Board found that the
15 commitment offense demonstrated an "exceptionally callous disregard
16 for human suffering and life" and was carried out in an "especially
17 cruel, brutal, and violent manner." (Id.) The Board took into
18 consideration the fact that multiple victims were involved in the
19 attack as well as the fact that Petitioner fired multiple shots at
20 point-blank range. (Id. at 77-78.)

21 The Board further found that Petitioner lacked sufficient
22 participation in self-help, anger management and substance abuse
23 programming. (Id. at 80.) The Board considered Petitioner to be
24 both unpredictable and a threat to others due to his failure
25 adequately to participate in such programming. (Id.) In addition,
26 the Board found that Petitioner had an "unstable social history" as
27 shown by his time in foster care after his parents divorced as well
28

1 as his admitted previous use of alcohol and drugs. (Id. at 78-79.)

2 The Board examined Petitioner's psychological evaluation from
3 December 24, 1999. (Id. at 35.) In the 1999 psychological
4 evaluation, Dr. Carswell wrote of Petitioner:

5 [I]t is felt that he would pose a less than average risk
6 for violence when compared to this Level II inmate
7 population. If released to the community, his violence
8 potential is estimated to be no higher than the average
9 citizen in the community. The most significant risk
10 factor as a precursor for violence for this inmate would
11 be a return to polysubstance abuse.

12 (Pet'r Ex. D, 1999 Psychological Evaluation at 5.) The Board also
13 considered Petitioner's psychological evaluation from January 28,
14 2004, which incorporated the 1999 psychological evaluation. The
15 Board found that the 2004 psychological evaluation was not "totally
16 supportive of release" because it said that Petitioner's only risk
17 of future criminality would be if he returned to substance abuse.
18 (Resp't Ex. 1 at 79.) The Board desired further psychological
19 evaluation regarding Petitioner's relationships with women and
20 potential spousal abuse problems that it considered inadequately
21 addressed. (Id. at 82.)

22 The Board considered the opposition to parole voiced by the
23 surviving victim Sennewald, the murdered victim's next of kin, and
24 the Orange County District Attorney's Office. (Id. at 80.)

25 The surviving victim Sennewald testified in part:

26 Jerry said he wants to be paroled in San Diego. I live
27 in San Diego. . . . And I really hope that Jerry can do
28 his Christian work here in prison. I really don't want
him out on the streets because I really don't think -- I
really don't think it will be good for anyone.

(Id. at 74, 76.)

Alan Pesanti, the brother of the murdered victim, expressed

1 his opposition to parole, stating:

2 [M]y entire family is asking life in prison and let him
3 serve the Christian community in prison. It's been
4 devastating beyond belief to my family, every day and
5 every holiday. In our opinion, it was a brutal,
senseless murder out of jealousy and rage. And I believe
in my heart that there's a chance that he can harm
someone else again if ever allowed out of prison.

6 (Id. at 71.)

7 Deputy District Attorney Mitchell, representing the Orange
8 County District Attorney's Office, testified in part:

9 [The prisoner] has said to [the Board], I've never done
10 those things, which is interesting to me because I'm
11 sitting next to the woman he shot. So if he's never been
12 violent to anybody before, how do you explain you shot
13 this person and you shot her male companion three
14 separate times . . . that's just not an accident. I
15 think he's a violent man. I think he'll say or do
16 whatever he thinks he has to do to get out of prison,
17 which is, I suppose, understandable. But it's just a
18 bad, bad risk to the public safety to let this man go.
19 We oppose parole for him.

20 (Id. at 59-60.)

21 The Board considered letters from Petitioner's friends and
22 family from San Diego, Big Bear Lake, Florida and Indiana pledging
23 to support Petitioner if the Board granted him parole. (Id. at 37-
24 45.) His friends Brian Zuniga and Dennis Walters offered to
25 support Petitioner in San Diego, where he planned to work in a
26 retail business for Mr. Zuniga. (Id. at 38.) Another friend,
27 Ronald E. White, offered Petitioner an opportunity to work for a
28 construction company in Big Bear Lake, California. (Id. at 39-40.)
Petitioner's son, J. Brian Wills, offered to find "gainful
employment" for Petitioner in Sarasota, Florida. (Id. at 41.)
Finally, Petitioner's family offered to support him with a place to
live in Indiana. (Id. at 39.) In response to these letters of

1 support, the Board found Petitioner's parole plans to be "fine."
2 (Id. at 79.)

3 The Board commended Petitioner for his vocational training,
4 for not receiving any disciplinary actions since 1984, for
5 excellent work reports, for earning college units in the School of
6 Bible, and for participating in a thirteen-week Impact Program.
7 (Id. at 80.) However, the Board found that these positive aspects
8 of his behavior did not outweigh the factors of unsuitability.
9 (Id.) The Board encouraged Petitioner to "remain disciplinary
10 free, continue to participate in self-help and substance abuse
11 classes, and cooperate with clinicians in the completion of a
12 clinical evaluation before the next Board hearing." (Id. at 82.)

13 Petitioner filed a state petition for a writ of habeas corpus
14 in the Orange County Superior Court, alleging that the Board's
15 parole denial was arbitrary and capricious and unsupported by any
16 evidence, in violation of his federal due process rights. (Pet'r
17 App. 1, Nov. 12, 2004 Orange County Superior Court Order at 2.)
18 The superior court denied habeas corpus relief on November 12,
19 2004. (Id. at 5.) The superior court held the Board's findings of
20 insufficient participation in self-help programming, unfavorable
21 psychological and institutional evaluations, and an unstable social
22 history to be "devoid of sufficient evidentiary support." (Id.
23 at 3.) However, the court concluded that there was an adequate
24 evidentiary basis for denying parole based on the "compelling
25 circumstances of the commitment offense" as well as the opposition
26 voiced by the surviving victim, the murdered victim's next of kin,
27 and the Orange County District Attorney's Office. (Id. at 2-3.)

1 The court also stated that there was no due process interest in
2 parole. (Id. at 4.) However, as mentioned above, the Ninth
3 Circuit has held otherwise, see Sass, 461 F.3d at 1125, and this
4 Court is obliged to follow the Ninth Circuit. Nevertheless, this
5 failure to recognize a due process interest in parole did not seem
6 to affect the superior court's decision.

7 On February 4, 2005, Petitioner filed a state habeas petition
8 in the California Court of Appeal. (Pet'r App. 2, Docket Sheet for
9 California Supreme Court Official Website at 1.) On March 3, 2005,
10 the petition was denied. (Id.)

11 On March 15, 2005, Petitioner filed a state habeas petition in
12 the California Supreme Court, which was denied on May 18, 2005.
13 (Id.)

14 LEGAL STANDARD

15 Because this case involves a federal habeas corpus challenge
16 to a state parole eligibility decision, the applicable standard is
17 contained in the Antiterrorism and Effective Death Penalty Act of
18 1996 (AEDPA). McQuillion v. Duncan, 306 F.3d 895, 901 (9th Cir.
19 2002).

20 Under AEDPA, a district court may not grant habeas relief
21 unless the state court's adjudication of the claim: "(1) resulted
22 in a decision that was contrary to, or involved an unreasonable
23 application of, clearly established Federal law, as determined by
24 the Supreme Court of the United States; or (2) resulted in a
25 decision that was based on an unreasonable determination of the
26 facts in light of the evidence presented in the state court
27 proceeding." 28 U.S.C. § 2254(d); Williams v. Taylor, 529 U.S.

1 362, 412 (2000). A federal court must presume the correctness of
2 the state court's factual findings. 28 U.S.C. § 2254(e)(1).

3 Petitioner has exhausted his state remedies by filing the
4 petition for a writ of habeas corpus in the California Supreme
5 Court. Where, as here, the highest state court to reach the merits
6 issued a summary opinion which does not explain the rationale of
7 its decision, federal court review under § 2254(d) is of the last
8 state court opinion to reach the merits. Bains v. Cambra, 204 F.3d
9 964, 970-71, 973-78 (9th Cir. 2000). In this case, the last state
10 court opinion to address the merits of Petitioner's claim is the
11 reasoned opinion of the Orange County Superior Court.

12 DISCUSSION

13 I. Due Process Claim

14 A. Some Evidence

15 Petitioner asserts that his federal due process rights were
16 violated by the Board's decision to deny parole because it was "not
17 supported by 'some evidence' having an indicia of reliability" to
18 support such a decision. (Pet. at 10.) Petitioner's claim fails.

19 Because California prisoners have a constitutionally protected
20 liberty interest in release on parole, they cannot be denied a
21 parole date without the procedural protections necessary to satisfy
22 due process. McQuillion, 306 F.3d at 902. A parole board's
23 decision must be supported by "some evidence" to satisfy the
24 requirements of due process. Hill, 472 U.S. at 455; McQuillion,
25 306 F.3d at 904; Morales v. California Dep't of Corrections, 16
26 F.3d 1001, 1005 (9th Cir. 1994), rev'd on other grounds, 514 U.S.
27 499 (1995). The evidence underlying the parole board's decision

1 must have some indicia of reliability. McQuillion, 306 F.3d
2 at 904; Jancsek v. Oregon Bd. of Parole, 833 F.2d 1389, 1390 (9th
3 Cir. 1987).

4 In denying Petitioner's request for parole, the Board cited as
5 evidence the "especially violent and brutal" nature of the
6 commitment offense, stating:

7 [The prisoner] burglarized the residence. He came in,
8 turned on the light. When he went to turn on a second
9 light, apparently there was a scuffle between the
10 prisoner and victim one, Mark Pesanti. As a result, the
11 victim, Pesanti, was shot twice. He ran into the next
12 room and I believe he was shot again. While they were in
13 the next room, the victim two, Joelle Sennewald . . . was
14 standing in front of the prisoner and he shot her
pointblank in the chest This offense was carried
out in an especially violent and brutal manner. He shot
the victim number one three times with a handgun and then
at pointblank range, he shot victim two in the chest one
time. The offense was carried out in a manner which
demonstrates an exceptionally callous disregard for human
suffering and life. This was needless.

15 (Resp't Ex. 1 at 78.)

16 Petitioner argues that the Board's finding that the nature of
17 his offense outweighed the positive aspects of his profile was not
18 supported by the evidence. (Pet. at 12.) He relies on Biggs v.
19 Terhune, 334 F.3d 910, 915-16 (9th Cir. 2003). He also claims that
20 the Board's decision to deny parole violated his due process rights
21 because the Board did not act impartially and did not comply with
22 California Penal Code § 3041(a), which states that the Board "shall
23 normally set a parole release date" Cal. Penal Code
24 § 3041(a). There is an exception to § 3041(a), which states:

25 the board, sitting en banc, shall set a release date
26 unless it determines that the gravity of the current
27 convicted offense . . . or past convicted offense or
offenses, is such that consideration of the public
safety requires a more lengthy period of incarceration

1 . . . and that a parole date, therefore, cannot be
2 fixed

3 Cal. Penal Code § 3041(b). However, Petitioner argues that the
4 Board's overuse of this exception is evidence that the Board had a
5 predisposition to deny his parole regardless of the circumstances.

6 In Biggs, the Ninth Circuit found that parole denial based
7 solely on the gravity of the commitment offense can initially
8 satisfy due process requirements and that the "some evidence"
9 standard could be satisfied by the parole board's consideration of
10 the gravity of the offense. However, in dicta, the Biggs court
11 held that courts may also consider the parole board's
12 decision-making process over time: "The Parole Board's decision is
13 one of 'equity' and requires a careful balancing and assessment of
14 the factors considered A continued reliance in the future
15 on an unchanging factor . . . runs contrary to the rehabilitative
16 goals espoused by the prison system and could result in a due
17 process violation." Biggs, 334 F.3d at 916-17.

18 Petitioner supports his claim that the Board failed to act
19 impartially with percentages of inmate parole denials in
20 California. (Pet. at 12-13.) Petitioner asserts that the Board
21 granted parole in 1.7% of cases between 1990 and 2003. (Id.
22 at 12.) He states that the Board denies parole to approximately
23 ninety percent of inmates appearing at a parole hearing. (Id.) He
24 claims a systematic bias deprived him of his liberty interest in
25 parole. (Id.) It may be logical to deduce that the current parole
26 denial rates evidence the Board's alleged predisposition to deny
27 parole. However, Petitioner has not proven that this alleged
28

1 predisposition played any role in the Board's decision in his case.

2 The Ninth Circuit has not specified the number of denials or
3 the length of time served beyond the minimum sentence that would
4 constitute a due process violation. Petitioner had been denied
5 parole by the Board three times; this was his fourth parole
6 suitability hearing. (Id. at 7.) In Irons v. Carey, the District
7 Court for the Eastern District of California granted a habeas
8 petition challenging the parole board's fifth denial of parole
9 where the petitioner had served sixteen years of a seventeen years
10 to life sentence for second degree murder with a two-year
11 enhancement for use of a firearm where all factors indicated
12 suitability for parole; however, the Ninth Circuit reversed. 358
13 F. Supp. 2d 936, 947 (E.D. Cal. 2005), rev'd, 505 F.3d 846 (9th
14 Cir. 2007). The Ninth Circuit stated:

15 We note that in all the cases in which we have held
16 that a parole board's decision to deem a prisoner
17 unsuitable for parole solely on the basis of his
18 commitment offense comports with due process, the
19 decision was made before the inmate had served the
20 minimum number of years required by his sentence.
21 Specifically, in Biggs, Sass, and here, the
22 petitioners had not served the minimum number of years
23 to which they had been sentenced at the time of the
24 challenged parole denial by the Board. Biggs, 334
25 F.3d at 912; Sass, 461 F.3d at 1125. All we held in
26 those cases and all we hold today, therefore, is that,
27 given the particular circumstances of the offenses in
28 these cases, due process was not violated when these
prisoners were deemed unsuitable for parole prior to
the expiration of their minimum terms.

Irons, 505 F.3d at 853-54. Like Irons, Biggs and Sass, at the time
of the Board's decision at issue here, Petitioner had not yet
served the minimum number of years imposed in his sentence. He had
only served approximately twenty-five years of his minimum twenty-

1 seven year sentence. (Pet. at 7.)

2 The Orange County Superior Court concluded that the Board's
3 decision at Petitioner's 2004 parole suitability hearing was
4 supported by "some evidence." (Pet'r App. 1 at 2.) The California
5 state courts' denial of Petitioner's claim was not contrary to, or
6 an unreasonable application of, controlling federal law, nor based
7 on an unreasonable determination of facts. See 28 U.S.C.
8 § 2254(d). Given the egregiousness of the commitment offense, the
9 Court finds no due process violation because the Board deemed
10 Petitioner unsuitable for parole prior to expiration of his minimum
11 term. Accordingly, Petitioner is not entitled to relief, and his
12 due process claim is DENIED.

13 By Petitioner's 2007 parole suitability hearing, he will have
14 served approximately twenty-eight years of his minimum twenty-
15 seven-year sentence, and the holding in Irons will no longer be
16 implicated. If Petitioner is again denied parole by the Board, and
17 the state court holds that some or all of the Board's findings are
18 not supported by "some evidence," this Court will give deference to
19 the state court's factual findings.

20 The Ninth Circuit's evolving guidance in Biggs, Sass and Irons
21 suggests that the Board can continue to evaluate static factors,
22 including the nature of the commitment offense, in deciding whether
23 to grant parole. See Sass, 461 F.3d at 1129. The weight to be
24 attributed to those immutable events, however, should decrease as a
25 predictor of future dangerousness as the years pass and the
26 prisoner demonstrates favorable behavior. See Biggs, 334 F.3d at
27 916-17; Irons, 505 F.3d at 851. Should Petitioner continue to

1 follow the Board's advice by attending self-help programming,
2 undergoing successful psychological evaluation regarding spousal
3 abuse and relationships with women, and maintaining a positive
4 disciplinary record, continued parole denials based on Petitioner's
5 commitment offense alone could eventually give rise to a due
6 process violation, once he has served his minimum term.

7 B. Sentencing Matrix

8 Petitioner claims a due process violation because he is
9 overdue for release pursuant to the Board's sentencing matrix.
10 (Pet. at 13.) The base term for the first degree murder of a
11 "friend" where "death is almost immediate" is twenty-seven, twenty-
12 eight and twenty-nine years. Cal. Code Regs., tit. 15,
13 § 2403(b)(B)(II). Relying on § 2403(b)(B)(II), Petitioner argues
14 that, because he had served approximately twenty-five years in
15 prison when he filed the present petition and received eight years
16 of post-conviction credit, he has met the maximum sentence
17 prescribed by the sentencing matrix. (Pet. at 13.)

18 This argument fails. Petitioner is serving an indeterminate
19 sentence under California Penal Code § 1168. When a prisoner is
20 sentenced under § 1168, the parole board is empowered to determine
21 if he is suitable for parole. Cal. Penal Code § 3040(b). If so,
22 the board will set a release date after consulting the matrix.⁴
23 Cal. Code Regs. § 2411(a). However, the matrix need not be

24
25 ⁴ "The Board may grant . . . postconviction credit when the
26 prisoner's performance, participation or behavior warrants such
27 adjustment . . . of credit." Cal. Code Regs., tit. 15, § 2410(b).
28 "[T]he panel shall consider . . . (1) Performance in Institutional
Work . . . , (2) Participation in Self-Help and Rehabilitative
Programs . . . , [and] (3) Behavior in the Institutional Setting."
Id. at § 2410(c)(1)-(3).

1 consulted if the board finds the prisoner to be unsuitable for
2 parole. In re Dannenberg, 34 Cal. 4th 1061, 1071 (2005).

3 Here, the Board found Petitioner to be unsuitable for parole.
4 Therefore, it was not required to consult the matrix or calculate
5 good time credits. Therefore, Petitioner's due process claim
6 relating to the Board's sentencing matrix is DENIED.

7 CONCLUSION

8 For the foregoing reasons, the petition for a writ of habeas
9 corpus is DENIED. The Clerk of the Court shall enter judgment and
10 close the file.

11 IT IS SO ORDERED.

12 Dated: 7/16/08



CLAUDIA WILKEN
United States District Judge

United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

WILLS,

Plaintiff,

v.

KANE et al,

Defendant.

Case Number: CV05-02690 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 16, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jerry G. Wills
C-20852
PO Box 689
Soledad, CA 93960-0689

Scott Colin Mather
CA State Attorney General's Office
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

Dated: July 16, 2008

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California